



**SPECIAL COMMON COUNCIL MEETING  
MARCH 3, 2014  
6 P.M.**

**Special Meeting**

The Special meeting Questions to Directors of the Common Council of the City of Middletown was held in the Council Chamber of the Municipal Building on Monday, March 3, 2014 at 6 p.m.

**Present**

Deputy Mayor Robert P. Santangelo and Council Members Thomas J. Serra, Hope Kasper, Carl R. Chisem, Gerald E. Daley, James B. Streeto, Sebastian N. Giuliano, Sandra Russo Driska, Deborah Kleckowski and David Bauer; Corporation Counsel Daniel B. Ryan, Sergeant-at-arms Police Chief William McKenna; and Common Council Clerk Marie O. Norwood.

**Absent**

Mayor Daniel T. Drew; Council Members Mary A. Bartolotta and Grady L. Faulkner, Jr.

**Also Present**

Public Works Director William Russo, Finance Director Carl Erlacher, Director of IT William Oliver, Water and Sewer Director Guy Russo, Parking Director Geen Thazhampallath, City Attorney Brig Smith, Human Resources Director Kathy Morey, Chief of Police William McKenna, Acting Parks and Recreation Acting Director Deb Stanley, Tax Assessor Damon Braasch, Acting Fire Chief Robert Kronenberger, Director of Communications Wayne Bartolotta, Director of Human Relations Faith Jackson, Director of Health Joseph Havlicek, MD, Arts Coordinator Stephan Allison, City and Town Clerk Linda Bettencourt, Emergency Management Director Bruce Driska, Russell Library Director Arthur Meyers, Youth Services Coordinator Justin Carbonella, Joseph Samolis Administrative Aide to the Mayor and four members of the public.

**Meeting Called to Order**

The Acting Chair, Deputy Mayor Robert P. Santangelo calls the meeting to order at 6:01 p.m. and asks Councilwoman Kleckowski to lead the public in the Pledge of Allegiance.

**Call of Meeting Read**

The Call of the meeting is read and accepted. The Acting Chair declares this call a legal call and the meeting a legal meeting.

**Workshop Opens**

Acting Chair Santangelo opens the workshop at 6:04 p.m.

The Chair recognizes Councilman Bauer who asks for the City's General Counsel. Attorney Smith comes forward. Councilman Bauer states we have a lease on the agenda and asks him to speak about the lease; the City profits in the lease and asks guidance when the City enters into a lease where they make a profit and not for the general benefit of the public. He asks do we not become the same as any landlord and have the liabilities and if there is an accident, we could be included in the lawsuits.

Attorney Smith states in a recent article, the Supreme Court came out with a decision and it was it depends. It depends on the building, property, and lease. For this lease for renewal and all I have been involved with, we always make sure the party leasing assumes the liability and provides certificates of insurance. That remains the case in this renewal lease. Councilman Bauer states there is a clause they have to provide a certificate of insurance and if the damages sought are big enough and we are known to have deep pockets, what happens. Attorney Smith replies it boils down to the facts of the case, our defense, who the judge and jury are at the time. Short of saying we shall never divest ourselves; I don't know how we would do it. If things go south, you hire people like me to go north. Councilman Bauer states the hypotheticals give him concern. He states this is near a public park and there is no fence or gate and it is worth asking the hypothetical question.

Councilwoman Kasper asks about the appropriation for the assistant deputy attorney. We had someone on insurance and claims who worked on claims adjustments and asks if that person will be replaced; if they are not, there could be a transfer of funds. Attorney Smith responds the need is there and you have seen my best efforts to provide that kind of coverage. That is not to say, I cannot do it full time. Councilwoman Kasper states your time is more valuable. Attorney Smith states he doesn't disagree. In a perfect world, he would take both the adjustor and the assistant counsel. What I can't do with an insurance adjustor is someone going to court and doing arbitration. I can't do that without the Council approving the description and appropriation.

Councilman Serra states will you endorse this insurance individual. Attorney Smith responds yes, he would. Councilwoman Kasper asks when that request will go to personnel to do that. Councilman Santangelo states the insurance person is not on the agenda. Councilwoman Kasper states I can't support this without an answer to my question. Councilman Serra states the question is what I asked him. If he endorses that position the Councilwoman will support the position. That is what she is trying to establish. Attorney Smith states he would endorse it. Councilwoman Kasper states if you don't do it this year, you have money for this position. Attorney Smith replies he can't just transfer over; he can't take the money for this new position. He is trying to talk about the third attorney openly. We could support the insurance adjustor and in trying to run the office is having a third attorney. Councilwoman Kasper states when we established the deputy city

attorney, at the time, we were told it would handle labor. In this position, it is labor. Attorney Smith replies absolutely. He describes the typical day; he spends 25% of his time on labor issues and Kori does 75% of her time on labor. Labor is like gardening; you have to keep at it. It requires attention and care. What you are not getting is having me working on riverfront development or the Metro Square deal or the real estate stuff. You don't have Kori helping to pick up litigation in-house. We are doing as much litigation in Middletown as Lansing which is twice as big with just two lawyers in-house to handle it. The third attorney is a person with labor background because we do it every day. We have been doing it successfully. Councilwoman Kasper states you have a huge case load with labor is there something that can be done like training for directors to reduce the case load. Attorney Smith responds you approved a human resource generalist with emphasis on training and we do a lot of training. The labor issues are not just here's how to do something. Some are endemic to management and union working side by side. I don't think that will go away with training. Councilwoman Kasper states training will help. Attorney Smith replies it will help some of it; discipline based on improper operation of heavy equipment and a grievance comes. Training would help prevent the grievance, but it will not help the more intractable issues.

Councilman Giuliano states there are two items, one the job description and before that an approval of an appropriation to fill the position. He asks if he would concede if Council allows this and filling the position early, it is a foregone conclusion it would be in the next budget. Attorney Smith replies yes. Councilman Giuliano states there is a tough budget coming up. Attorney Smith states the decision is not driven by a tight budget; there are operation needs. Councilman Giuliano states it wouldn't be a first time the council has kept staffing levels below where it should be. Attorney Smith responds that is why we are here this evening. I really need this sooner rather than later. I want to be transparent about this. I would not anticipate cutting the funding. Councilman Giuliano states you will be near the end of the fiscal year before you can fill the position. Attorney Smith states he was generous with the funding and is anticipating it is a generous request. Councilman Giuliano asks if they could postpone this to May after we look at the budget. Attorney Smith responds you can do that but operation consequences is it will be a tougher sled to run in and increased outside counsel costs. It is not a binary decision. It is what is good for the City. Councilman Giuliano states it is a tough call for him. We are putting together a budget and they want as much on the table when doing that and I do understand the needs of your office.

Councilman Bauer asks about the contract; where does the revenue from that lease go; is it the general fund. Attorney Smith states he believes so. Director William Warner responds Economic Development fund.

Councilman Serra states the Democratic caucus met, and if we do this for recruitment and if this is not in the budget and if the Mayor does not endorse it, the caucus will pull back on this. If the administration wants this, it is important that it happens, but if not, then we will pull back. There is concern about the claims adjuster and we need to address both. The Council is well aware of it. It is for recruitment only and if it is not in the budget, the money is coming back.

Councilwoman Driska states what do you anticipate you would save in having to outsource labor. Attorney Smith replies it is difficult, but if the City goes to arbitration on a big contract, that is a proposition that costs between \$40,000 and \$150,000 depending. Councilwoman Driska asks if the person would do that. Attorney Smith replies we do that now.

Councilman Streeto asks what he spends on outside counsel a year. Attorney Smith states we ran a report through fiscal year first half and it was down \$12,000 and a dramatic reduction of where we were. It is us working all-nighters and being as fiscally tight as we can be. Councilman Streeto asks if there were more people in-house hypothetically they can do the work. Attorney Smith replies hypothetically.

Councilwoman Kasper states on the new position about consideration or that position is it possible to see some of the duties of the insurance appraiser and adjustor be included if need be. Attorney Smith states he would put it under the other duties as assigned. Operationally if they find they need to do that, we can give it to them.

Councilman Serra asks why he hasn't sent a memo to fill the claims adjuster. Attorney Smith states he is trying to be conservative and tight; he has been able to get by without filling the position. Councilman Serra states we are losing money. Attorney Smith states the subrogation recovery. Councilman Serra asks that he take it under advisement. Councilman Serra asks to address questions to Guy Russo, Director of Water and Sewer. He asks on 8A relative to the agreement (with Kleen Energy) are we all set. Mr. Russo responds we are not all set; we are still working on an agreement. He suspects he needs another month. Councilman Serra asks if it will benefit Middletown; Mr. Russo responds yes. Councilman Serra states more than this agreement. Mr. Russo responds yes. They need more time. Councilman Serra states you advise us to postpone it a month. Mr. Russo replies yes. Councilman Serra asks for Bill Russo, Director of Public Works. He states we had a bad winter and to clarify, the \$425,000 we are appropriating this will cover current and anticipated storms. Mr. Russo states storms like today, we are good. This will get us through the winter barring anything real crazy.

### **Motion to Adjourn**

The Acting Chair asks if there are any further questions to directors; hearing none, he calls for a motion to adjourn. Councilman Streeto moves to adjourn and Councilwoman Kasper seconds the motion. The Acting Chair calls for the vote; it is unanimous with ten aye votes. He declares the meeting adjourned at 6:30 p.m.

ATTEST:

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MARIE O. NORWOOD  
COMMON COUNCIL CLERK